

MEMORANDUM

May 4, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: ELIZABETH KESSEL
Kessel and Associates

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Donna Salvas v. County of Los Angeles
Los Angeles Superior Court Case No. BC 317321

DATE OF
INCIDENT: January 2003 through June 2003

AUTHORITY
REQUESTED: \$100,000

COUNTY
DEPARTMENT: Department of Public Works

CLAIMS BOARD ACTION:

☐ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2005

SUMMARY

This is a recommendation to settle for \$100,000, a lawsuit filed by Donna Salvas, who alleges that she was subject to sexual harassment and retaliation by members of the Department of Public Works.

LEGAL PRINCIPLES

Under the Fair Employment and Housing Act (FEHA), an individual employee is liable for committing sexual harassment on another in the workplace. In addition, the employer is liable if it retaliates against an employee for complaining about harassment.

The County is responsible for the intentional and negligent acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

Donna Salvas is an Intermediate Typist-Clerk in the Department of Public Works. She alleges that from January 2003 through June 2003, she was sexually harassed by a co-worker, and when she complained about the harassment to her supervisors, she was retaliated against.

According to Ms. Salvas, the harassment consisted of sexual comments, sexual gestures, and an attempt to touch her on one occasion. Ms. Salvas alleges that when she complained to a supervisor about the harassment, her work load was increased to an unmanageable level, and she was issued a notice of intent to suspend. As a result, Ms. Salvas filed a worker's compensation action based on stress.

The Department investigated Ms. Salvas' complaints and determined that many of the allegations regarding her co-worker's inappropriate conduct were substantiated.

DAMAGES

Should this matter proceed to trial, the potential damages could be as follows:

Loss of earnings	\$ 50,000
Emotional distress	\$250,000
Attorney fees	<u>\$100,000</u>
Total	<u>\$400,000</u>

The proposed settlement calls for the County to pay Donna Salvas \$100,000 for all of her claims for damages, costs, and attorney fees. Her worker's compensation case is pending.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement. Expenses incurred by the County in defense of this action are attorney fees of \$60,240 and \$13,011 in costs.

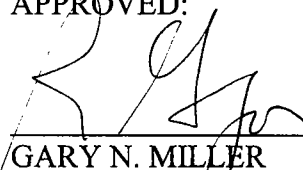
EVALUATION

This is a case of probable liability. Although there is no evidence that Ms. Salvas was subjected to retaliation, the Department's investigation confirmed that the co-worker engaged in inappropriate conduct with respect to Ms. Salvas. A jury is likely to agree.

A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

We join with our private counsel, Kessel and Associates, in recommending a settlement of this matter in the total amount of \$100,000. The Department of Public Works concurs in this recommendation.

APPROVED:



GARY N. MILLER
Assistant County Counsel
General Litigation Division

RHG:scr